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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,949	04/19/2001	Elia Rocco Tarantino	ZDICE.0017P	1704

32856 7590 04/30/2004

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EXAMINER
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MOSSER, ROBERT E

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 04/30/2004

14

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/838,949

Applicant(s)

TARANTINO, ELIA ROCCO

Examiner

Robert Mosser

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 2-23-04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 29-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 29-50 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission(s) filed on February 5<sup>th</sup> and 23<sup>rd</sup> of 2004 have been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 39-41, 43-47, and 49-50 are rejected under 35 U.S.C. 102(b) as being anticipated by Behm et al (5,560,610), Pollard (US 5,193,815), or Smith (5,411,260).

The Behm, Pollard, and Smith references teach all of the claimed features including:

the displaying of rows (**m**) and columns (**n**) matrix comprising the player game symbols where there are at least two rows and at least two columns are present in the matrix of player game symbols;

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the selection and generation of a second matrix of main symbols with at least  $n$  columns and at least one row;

the comparison of the main symbols and the player symbols in order to determine any correspondence between the symbols (by value and location);

declaring the player who receives a particular matching arrangement/combination of symbols within the player matrix a winner; and

embodied on a printed ticket which is understood to be operable by at east one player

The above is demonstrated by Behm's figure 2, Pollard's figure 1, and Smith's figures 1 & 2.

Regarding the feature of displaying indicia of matching symbols as presented in at least claim(s) 43, the presentation of two matching symbols (one in the main set and an additional in the player set) would seem to inherently meet this feature.

Regarding the feature of continuing the game until at least one player is declared a winner as presented in at least claim(s) 46, this feature is considered to be inherent to the function of lotteries or wagering games of the type cited above.

Regarding the feature of generating a successive row of main symbols and then repeating the comparison against the player symbols as presented in at least claim(s) 49 and 50, all the references presented above provide for multiple main rows and their comparison for the determination of game result.

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 29-30, 32-38, 42, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behm et al (5,560,610), Pollard (US 5,193,815), or Smith (5,411,260) as applied in the 35 USC 102(b) rejection above.

In addition to the presented limitations addressed in the above rejections the embodiment of the game symbols as die or images thereof opposed to numbers as presented is deemed a matter of design choice wherein no stated problem is solved or unexpected result is obtained. It would have been obvious to one of ordinary skill in the art at the time of invention to have utilized the image of dice juxtaposed to numbers in order establish a visual theme or provide a more interesting basis for the symbol reveals.

Claims 29-30, 32-38, 42, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Behm et al (5,560,610), Pollard (US 5,193,815), or Smith (5,411,260)

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as applied in the 35 USC 102(b) rejection above and in further view of Makovic et al (US 4,443,012) or alternatively in further view of Russell (US 4,015,850).

In addition to the presented limitations addressed in the above rejections the embodiment of the game symbols as die or images thereof opposed to numbers is not readily apparent in the Behm, Pollard, or Smith references. However Makovic and Russell teach the use of dice (die) in figure 2 of both patents centered on gaming. It would have been obvious to one of ordinary skill in the art at the time of invention to have utilized the image of dice juxtaposed to numbers in order establish a visual theme or provide a more interesting basis for the symbol reveals.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Behm et al (5,560,610), Pollard (US 5,193,815), or Smith (5,411,260) as applied in the 35 USC 102(b) rejection above and in further view of Leake (US 5,624,119).

In addition to the presented limitations addressed in the above rejections the embodiment of an electronic display device is not readily apparent in the Behm, Pollard, or Smith references. However in a related matrix game Patent Leake teaches the use of such device. It would have been obvious for one of ordinary skill in the art at the time of invention to have incorporated the games of Behm, Pollard, and Smith with an electronic display in order to reduce the ability of the player to defraud the lottery vendor and/or reduce the long term cost of game operation and/or reduce the amount of waste generated by the game operation.

***Response to Arguments***

6. Applicant's arguments with respect to claims 29, 39, and 47 have been considered but are moot in view of the new ground(s) of rejection. The newly presented limitation directed to the correspondence of symbols in the "main" set and "player" set seem only to pull the scope of the claims back towards the prior art centered around bingo type games. While it would seem the that the applicant may be intending to provide for a distinction between such bingo type games and their claimed invention the bingo systems provides an addressable matrix of the specified dimensions wherein each selected number or "main" set component is traditionally referenced by both the range of the number and the letter. Though as has been readily demonstrated by the references cited in this action, many variations on this system have been widely developed.

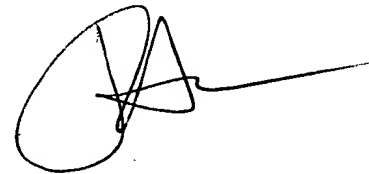
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Mosser whose telephone number is (703)-305-4253. The examiner can normally be reached on 8:30-4:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

REM

A handwritten signature in black ink, appearing to be 'J. Harrison', with a long horizontal line extending to the right.

**JESSICA HARRISON  
PRIMARY EXAMINER**